

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-210848

**DATE:** June 28, 1983

**MATTER OF:** Hale Building Company, Inc.

**DIGEST:**

Revelation of the bid price in a telegraphic modification prior to bid opening, although contrary to the terms of the solicitation, is a waivable error where no proof of prejudice to other bidders is presented.

Hale Building Company, Inc. (Hale), protests the award of a contract to John Morris Building Systems (Morris) under invitation for bids (IFB) No. DACA01-82-B-0083, issued by the United States Army Corps of Engineers, on the ground that the Morris bid was nonresponsive.

We deny the protest.

The IFB included standard form 22 which states that telegraphic modifications of bids will be considered, but should not reveal the amount of the original or revised bid. Despite this provision, Morris submitted a telegraphic modification before opening which revealed its revised bid price.

Hale protests that revealing the price violated the terms of the solicitation and rendered the Morris bid nonresponsive. Further, Hale alleges that acceptance of the bid prejudiced itself and the other bidders on this IFB, which complied with the solicitation.

The agency responds that the revelation of the bid price was a minor irregularity which is waivable since it did not prejudice the other bidders. The agency draws an analogy between this situation and the submission of an unsealed bid, which ordinarily is a waivable error.

The test of responsiveness is whether the bid, as submitted, complies with the IFB's material provisions. If an irregularity exists which relates to an inconsequential matter, the agency must either waive it or allow the bidder an opportunity to cure it. WFT Service Corp., B-206603, August 31, 1982, 82-2 CPD 190. In this case, the irregularity was Morris' failure to protect its bid price from being revealed prior to opening. We agree with the agency that this failure is similar to submitting an unsealed bid. Therefore, the error is inconsequential and should be waived unless there is evidence of competitive prejudice to the other bidders. Ryan-Walsh Stevedoring Company, Inc., B-182039, March 5, 1975, 75-1 CPD 129. The present case does not include any evidence of this type of prejudice.

Protest denied.

*for Milton J. Arulan*  
Comptroller General  
of the United States